

SECOND REGULAR SESSION

HOUSE BILL NO. 1784

98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE BARNES.

4493H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapter 196, RSMo, by adding thereto one new section relating to epinephrine auto-injectors.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 196, RSMo, is amended by adding thereto one new section, to be
2 known as section 196.990, to read as follows:

196.990. 1. As used in this section, the following terms shall mean:

2 **(1) "Administer", the direct application of an epinephrine auto-injector to the body**
3 **of an individual;**

4 **(2) "Authorized entity", any entity or organization at or in connection with which**
5 **allergens capable of causing anaphylaxis may be present including, but not limited to,**
6 **restaurants, recreation camps, youth sports leagues, amusement parks, and sports arenas;**

7 **(3) "Caretaker", a person or entity under whose care a child has been entrusted by**
8 **such child's parent or guardian for consideration;**

9 **(4) "Epinephrine auto-injector", a single-use device used for the automatic injection**
10 **of a premeasured dose of epinephrine into the human body;**

11 **(5) "Physician", a physician licensed in this state under chapter 334;**

12 **(6) "Provide", the supply of one or more epinephrine auto-injectors to an**
13 **individual;**

14 **(7) "Self-administration", a person's discretionary use of an epinephrine auto-**
15 **injector.**

16 **2. A physician may prescribe epinephrine auto-injectors in the name of an**
17 **authorized entity for use in accordance with this section, and pharmacists, physicians, and**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 other persons authorized to dispense prescription medications may dispense epinephrine
19 auto-injectors under a prescription issued in the name of an authorized entity.

20 3. An authorized entity may acquire and stock a supply of epinephrine auto-
21 injectors under a prescription issued in accordance with this section. Such epinephrine
22 auto-injectors shall be stored in a location readily accessible in an emergency and in
23 accordance with the epinephrine auto-injector's instructions for use and any additional
24 requirements established by the department of health and senior services by rule. An
25 authorized entity shall designate employees or agents who have completed the training
26 required under this section to be responsible for the storage, maintenance, and general
27 oversight of epinephrine auto-injectors acquired by the authorized entity.

28 4. An employee or agent of an authorized entity or any other person who has
29 completed the training required under this section may use epinephrine auto-injectors
30 prescribed under this section on the premises of or in connection with the authorized entity
31 to:

32 (1) Provide an epinephrine auto-injector to any individual who the employee, agent,
33 or other person believes in good faith is experiencing anaphylaxis for immediate self-
34 administration, regardless of whether the individual has a prescription for an epinephrine
35 auto-injector or has previously been diagnosed with an allergy;

36 (2) Administer an epinephrine auto-injector to any individual who the employee,
37 agent, or other person believes in good faith is experiencing anaphylaxis, regardless of
38 whether the individual has a prescription for an epinephrine auto-injector or has
39 previously been diagnosed with an allergy.

40 5. Notwithstanding the provisions of subsection 4 of this section, an employee or
41 agent of an authorized entity shall not provide or administer an epinephrine auto-injector
42 to any individual who is under twelve years of age without the oral consent of a parent or
43 guardian who is present at the time when provision or administration of the epinephrine
44 auto-injector is needed. Provided, however, that an employee or agent of an authorized
45 entity may provide or administer an epinephrine auto-injector to such an individual
46 without the consent of a parent or guardian if the parent or guardian is not physically
47 present and the employee or agent reasonably believes the individual is in imminent danger
48 without the provision or administration of the epinephrine auto-injector.

49 6. An employee, agent, or other person described in subsection 4 of this section shall
50 successfully complete an anaphylaxis training program prior to providing or administering
51 an epinephrine auto-injector made available by an authorized entity and at least every two
52 years following successful completion of the initial anaphylaxis training program. Such
53 training shall be conducted by a nationally recognized organization experienced in training
54 laypersons in emergency health treatment or another entity or person approved by the

55 department of health and senior services. Training may be conducted online or in person
56 and, at a minimum, shall cover:

57 (1) Techniques on how to recognize symptoms of severe allergic reactions including
58 anaphylaxis;

59 (2) Standards and procedures for the storage and administration of an epinephrine
60 auto-injector; and

61 (3) Emergency follow-up procedures.

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63 The entity that conducts the training shall issue a certificate on a form developed or
64 approved by the department of health and senior services to each person who successfully
65 completes the anaphylaxis training program.

66 7. The following persons and entities shall not be liable for any injuries or related
67 damages that result from the administration of, self-administration of, or failure to
68 administer an epinephrine auto-injector in accordance with this section that may constitute
69 ordinary negligence:

70 (1) An authorized entity that possesses and makes available epinephrine auto-
71 injectors and its employees, agents, and other trained persons;

72 (2) Any person who uses an epinephrine auto-injector made available under this
73 section;

74 (3) A physician that prescribes epinephrine auto-injectors to an authorized entity;
75 or

76 (4) Any person or entity that conducts the training described in subsection 6 of this
77 section.

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79 Such immunity shall not apply to acts or omissions constituting a reckless disregard for the
80 safety of others or willful or wanton conduct. The administration of an epinephrine auto-
81 injector in accordance with this section shall not be considered the practice of medicine.
82 The immunity from liability provided under this subsection is in addition to and not in lieu
83 of that provided under section 537.037. An authorized entity located in this state shall not
84 be liable for any injuries or related damages that result from the provision or
85 administration of an epinephrine auto-injector by its employees or agents outside of this
86 state if the entity or its employee or agent are not liable for such injuries or related
87 damages under the laws of the state in which such provision or administration occurred.

88 8. No immunity provided under this section shall apply to a caretaker if the
89 individual who experienced anaphylaxis:

90 (1) Was a minor child;

91 (2) Had a known allergy at the time of anaphylaxis;

92 (3) Was under the care or supervision of a caretaker other than a parent or
93 guardian;

94 (4) Was prescribed an epinephrine auto-injector;

95 (5) Was not administered an epinephrine auto-injector by a caretaker; and

96 (6) Had an epinephrine auto-injector available to him or her at the time of
97 anaphylaxis due to one of following:

98 (a) The minor child being in possession of his or her epinephrine auto-injector, an
99 epinephrine auto-injector present on the premises where the anaphylaxis occurred, or the
100 caretaker being in possession of an epinephrine auto-injector;

101 (b) The parent of guardian of the minor child providing an epinephrine auto-
102 injector to the caretaker; or

103 (c) The caretaker representing to the parent or guardian of the minor child that an
104 epinephrine auto-injector is available on the premises where the anaphylaxis occurred.

105 9. No immunity provided under this section shall apply to any licensed health care
106 provider if the administration of an epinephrine auto-injector is within his or her scope of
107 practice except when the alleged liability is based upon:

108 (1) Such provider's actions in prescribing or dispensing the prescription; or

109 (2) Such provider's actions in providing training to authorized entities under this
110 section.

111 10. An authorized entity that possesses and makes available epinephrine auto-
112 injectors shall submit to the department of health and senior services, on a form developed
113 by the department, a report of each incident on the authorized entity's premises involving
114 the administration of an epinephrine auto-injector. The department shall annually publish
115 a report that summarizes all reports submitted to it under this subsection, but shall not
116 include any identifying information regarding the persons to whom such epinephrine auto-
117 injectors were administered.

118 11. An authorized entity that acquires a stock supply of epinephrine auto-injectors
119 under a prescription issued in accordance with this section may make such epinephrine
120 auto-injectors available to individuals other than the trained persons described in
121 subsection 4 of this section if the epinephrine auto-injectors are stored in a locked secure
122 container in accordance with manufacturer specifications and are made available only
123 upon remote authorization by a physician via audio, televideo, or other similar means of
124 electronic communication. Consultation with a physician for such purpose shall not be
125 considered the practice of telemedicine or otherwise be construed as violating any law or
126 rule regulating the physician's professional practice.

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